

In re the marriage of:

PETITIONER (You)

Street Address _____
City, State _____, ____
ZIP _____

and

RESPONDENT (Your Spouse)

Street Address _____
City, State _____, ____
ZIP _____

Summons

With Minor Children

Case # _____

☐ STATE OF WISCONSIN is NOT a party

☐ STATE OF WISCONSIN IS a party

Waukesha County, Office of Corporation Counsel
Child Support Division Administration Center, Room 346
1320 Pewaukee Road, Waukesha, WI 53188
Phone: (262) 548-7420

☐ Divorce-40101

☐ Legal Separation-40201

The State of Wisconsin, to the Person Named Above as RESPONDENT:

1. You are hereby notified that your spouse (the PETITIONER) has filed a lawsuit or other legal action against you. The **Petition**, which is attached, states the nature and basis of the legal action.
2. Within twenty (20) days of receiving this **Summons**, you must respond with a written **Answer**, as that term is used in Chapter 802 of the Wisconsin Statutes, to the **Petition**. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court at:

Clerk of Circuit Court,
Waukesha County Courthouse, Room 112
515 West Moreland Boulevard
Waukesha, WI 53188.

3. Within twenty (20) days of receiving this **Summons**, the **Answer** must **also** be mailed or delivered to:

The PETITIONER

Whose address is

(First) (M.I.) (Last)
_____, Apt # _____
(Street Address)
_____, _____
(City) (State) (ZIP Code)

4. It is **recommended**, but not required, that you have an attorney help or represent you.

-
5. If you do not provide a proper **Answer** within twenty (20) days, the court may grant judgment against you, and you may lose your right to object to anything that is or may be incorrect in the **Petition**. A judgment may be enforced as provided by law. A judgment may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.
 6. You are hereby notified of the availability of information from the Family Court Commissioner set forth in section 767.081 of the Wisconsin Statutes, which provides as follows:

767.081 Information from Family Court Commissioner.

1. Upon the filing of an action affecting the family, the Family Court Commissioner shall inform the parties of any services, including referral services to other agencies and services, offered by Family Court Counseling under s. 767.11.
2. Upon the request of a party to an action affecting the family, including a revision of judgment or order under s. 767.32 or 767.325:
 - (a) The Family Court Commissioner shall, with or without charge, provide the party with written information on the following, as appropriate to the action commenced:
 1. The procedure for obtaining a judgment or order in the action.
 2. The major issues usually addressed in such an action.
 3. Community resources and family court counseling services available to assist the parties.
 4. The procedure for setting, modifying, and enforcing child support awards, or modifying and enforcing legal custody or physical placement judgments or orders.
 - (b) The Family Court Commissioner shall provide a party, for inspection or purchase, with a copy of the statutory provisions in this chapter generally pertinent to the action.

You are further hereby notified that if the parties to the action have minor children, violation of the following criminal statute is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed ten (10) years, or both.

Wisconsin Statute 948.31 Interference with custody by parent or others.

(1) (a) In this subsection, "legal custodian of a child" means:

1. A parent or other person having legal custody of the child under an order or judgment in an action for divorce, legal separation, annulment, child custody, paternity, guardianship or habeas corpus.
2. The department of health and family services or the department of corrections or any person, county department under s. 46.215, 46.22 or 46.23 or licensed child welfare agency, if custody or supervision of the child has been transferred under chapter 48 or chapter 938 to that department, person or agency.

(1) (b) Except as provided under chs. 48 and 938, whoever intentionally causes a child to leave, takes a child away, or withholds a child for more than 12 hours beyond the court-approved period of physical placement or visitation period from a legal custodian with intent to deprive the custodian of his or her custody rights without the consent of the custodian is guilty of a Class C felony. This paragraph is not applicable if the court has entered an order authorizing the person to so take or withhold the child. The fact that joint legal custody has been awarded to both parents by a court does not preclude a court from finding that one parent has committed a violation of this paragraph.

-
- (2) Whoever causes a child to leave, takes a child away or withholds a child for more than 12 hours from the child's parents, or in the case of a nonmarital child whose parents do not subsequently intermarry under s. 767.60, from the child's mother, or if he has been granted legal custody, the child's father, without the consent of the parents, the mother or the father with legal custody, is guilty of a Class E felony. This subsection is not applicable if legal custody has been granted by court order to the person taking or withholding the child.
- (3) Any parent, or any person acting pursuant to directions from the parent, who does any of the following is guilty of a Class C felony:
- (a) Intentionally hides a child from the child's other parent.
 - (b) After being served with process in an action affecting the family but prior to the issuance of a temporary or final order determining child custody rights, takes the child or causes the child to leave with intent to deprive the other parent of physical custody as defined in s. 822.02(9).
 - (c) After issuance of a temporary or final order specifying joint legal custody rights and periods of physical placement, takes a child from or causes a child to leave the other parent in violation of the order or withholds a child for more than 12 hours beyond the court-approved period of physical placement or visitation period.
- (4) (a) It is an affirmative defense to prosecution for violation of this section if the action:
- 1. Is taken by a parent or by a person authorized by a parent to protect his or her child in a situation in which the parent or authorized person reasonably believes that there is a threat of physical harm or sexual assault to the child;
 - 2. Is taken by a parent fleeing in a situation in which the parent reasonably believes that there is a threat of physical harm or sexual assault to himself or herself;
 - 3. Is consented to by the other parent or any other person or agency having legal custody of the child; or
 - 4. Is otherwise authorized by law.
- (4) (b) A defendant who raises an affirmative defense has the burden of proving the defense by a preponderance of the evidence.
- (5) The venue of an action under this section is prescribed in s. 971.19(8).
- (6) In addition to any other penalties provided for violation of this section, a court may order a violator to pay restitution, regardless of whether the violator is placed on probation under s. 973.09, to provide reimbursement for any reasonable expenses incurred by any person or any governmental entity in locating and returning the child. Any such amounts paid by the violator shall be paid to the person or governmental entity which incurred the expense on a prorated basis. Upon the application of any interested party, the court shall hold an evidentiary hearing to determine the amount of reasonable expenses.

Dated: _____, 20____
(Month) (Day) (Year).

Signature of PETITIONER appearing pro se
(without an attorney)

Child Support Percentage of Income Standards

Authority and Purpose

Wis. Stats. Sec. 49.22(9) requires the Department to adopt and publish a standard, based upon a percentage of the gross income and assets of either or both parents, to be used by courts in determining child support obligations. Chapter DWD 40 of the Wisconsin Administrative Code establishes Wisconsin's percentage of income standard for child support. It is based upon the principle that the child's standard of living should, to the degree possible, be the same as if the child's parents were living together.

Chapter DWD 40 defines the income upon which the support obligation is based, and sets the percentages of income for computing the support obligation based upon a number of children. It also explains optional procedures for adjusting the obligation when the parents share placement, when the payer has an obligation to support another family, or when the payer has particularly high or low income.

Applicability

The percentage standard applies to any temporary and final order for child support, including child support stipulations agreed to by both parents and modifications of existing child support orders. When used to calculate family support, the amount determined under the standard should be increased by the amount necessary to provide a net family support payment, after state and federal income taxes are paid, of at least the amount of a child support payment under the standard.

Definition Of Income And Assets

Chapter DWD 40 defines gross income as income from any source, whether or not it is reported or taxed under federal law. The income can be in the form of money, property, or services. Public assistance or child support received from previous marriages or business expenses, which the court determines are reasonably necessary for the production of income or operation of a business are subtracted, and wages paid to dependent household member are added to determine "gross income available for child support."

The court may also determine that income may be "imputed" (assumed at a given level) based on earning capacity and/or assets, and that imputed income is added to the gross income for the calculation of the support obligation.

Basic Support Costs

Basic support costs means food, shelter, clothing, transportation, personal care, and incidental recreational costs.

Variable Support Costs

Variable costs means the reasonable costs above basic support costs incurred by or on behalf of a child, including but not limited to, the cost of child care, tuition, a child's special needs, and other activities that involve substantial cost.

Gross Income Available for Child Support

The court shall determine a parent's monthly income available for child support by adding together the parent's annual gross income or, if applicable, the parent's annual income modified for business expenses; the parent's annual income imputed based on earning capacity; and the parent's annual income imputed from assets, and dividing that total by 12.

Determine Child Support Using the Income Standard

Except as provided in s. DWD 40.04 (4) and (5), the percentage of the parent's monthly income available for child support or adjusted monthly income available for child support that constitutes the child support obligation shall be:

17% for 1 child	31% for 4 children
25% for 2 children	34% for 5 or more children
29% for 3 children	

Percentage amount must be expressed as a fixed sum in most cases as stated in s. 767.08, Stats.

Special Circumstances

There are instances when child support may be determined under special circumstances as follows and other specific formulas apply:

Serial-Family Payer	A payer with an existing legal obligation for child support who incurs an additional legal obligation for child support in a subsequent family as a result of a court order. See DWD 40.04 (1).
Shared-Placement Payer	A parent who has a court-ordered period of placement of at least 25%, is ordered by the court to assume the child's basic support costs in proportion to the time that the parent has placement of the child, and is determined to owe a greater support amount than the other parent under the calculation in s. DWD 40.04 (2)(b). See DWD 40.04 (2).
Split Placement Payer	A payer who has 2 or more children and who has physical placement of one or more but not all of the children. See DWD 40.04 (3).
Low Income Payer	A payer for whom the court uses the monthly support amount provided in the schedule in Appendix C based on the court's determination that the payer's total economic circumstances limit his or her ability to pay support at the level provided under s. DWD 40.03 (1) and the payer's income available for child support is at level set forth in the schedule in Appendix C. See DWD 40.04 (4).
High Income Payer	A payer who makes an annual gross income greater than or equal to \$84,000. See DWD 40.04 (5).

For further details, refer to Chapter DWD 40 of the Wisconsin Administrative Code and Wisconsin Statute 767 Actions Affecting the Family. (Choose "Wisconsin Law" on <<http://www.legis.state.wi.us>>).

Wisconsin Statute 767.25 Child Support.

(1) Whenever the court approves a stipulation for child support under s. 767.10, enters a judgment of annulment, divorce or legal separation, or enters an order or a judgment in an action under s. 767.02(1)(f) or (j) or 767.08, the court shall do all of the following:

- (a) Order either or both parents to pay an amount reasonable or necessary to fulfill a duty to support a child. This amount must be expressed as a fixed sum unless the parties have stipulated to expressing the amount as a percentage of the payer's income and the requirements under s. 767.10 (2) (am) 1. to 3. are satisfied.
- (1g) In determining child support payments, the court may consider all relevant financial information or other information relevant to the parent's earning capacity, including information reported to the department, or the county child and spousal support agency, under s. 49.22(2m).
- (1j) Except as provided in sub. (1m), the court shall determine child support payments by using the percentage standard established by the department under s. 49.22(9).
- (1m) Upon request by a party, the court may modify the amount of child support payments determined under sub. (1j) if, after considering the following factors, the court finds by the greater weight of the credible evidence that use of the percentage standard is unfair to the child or to any of the parties:
 - (a) The financial resources of the child.
 - (b) The financial resources of both parents as determined under s. 767.255.
 - (bj) Maintenance received by either party.
 - (bp) The needs of each party in order to support himself or herself at a level equal to or greater than that established under 42 USC 9902(2).
 - (bz) The needs of any person, other than the child, whom either party is legally obligated to support.
 - (c) The standard of living the child would have enjoyed had the marriage not ended in annulment, divorce or legal separation.
 - (d) The desirability that the custodian remain in the home as a full-time parent.
 - (e) The cost of day care if the custodian works outside the home, or the value of custodial services performed by the custodian if the custodian remains in the home.
 - (ej) The award of substantial periods of physical placement to both parents.
 - (em) Extraordinary travel expenses incurred in exercising the right to periods of physical placement under s. 767.24.
 - (f) The physical, mental and emotional health needs of the child, including any costs for health insurance as provided for under sub. (4m).
 - (g) The child's educational needs.
 - (h) The tax consequences to each party.
 - (hm) The best interests of the child.
 - (hs) The earning capacity of each parent, based on each parent's education, training and work experience and the availability of work in or near the parent's community.
 - (i) Any other factors which the court in each case determines are relevant.
- (1n) If the court finds under sub. (1m) that use of the percentage standard is unfair to the child or the requesting party, the court shall state in writing or on the record the amount of support that would be required by using the percentage standard, the amount by which the court's order deviates from that amount, its reasons for finding that use of the percentage standard is unfair to the child or the party, its reasons for the amount of the modification and the basis for the modification.